



December 11, 2006

Mr. David Ikari, Chief  
Dairy Marketing Branch  
California Department of Food and Agriculture  
560 J Street, Suite 150  
Sacramento, CA 95814

**RE: December 5, 2006 Class 1 hearing – Post Hearing Brief:**

Mr. Hearing Officer and Members of the Panel:

Dean Foods Company appreciates the opportunity to submit the following post-hearing brief to amplify our testimony and respond to other testimony that was presented on December 5<sup>th</sup> 2006 in Sacramento, California.

**1. Answer to question by Mr. Tom Gossard.**

Mr. Gossard asked about the source for the column titled Bulk Milk Imports in Table 2 on page 4 of my testimony. The source is from “Request A – Class 1 Utilz” tab in Workshop Data Request spreadsheet on the Departments website (<http://www.cdfa.ca.gov/dairy/xls/workshop%20requests%20dec%205%2006%20hearing.xls>). The values represent annual totals for “IMPORT UTILIZED AS CLASS 1 (pounds)”. In 2006, the values not provided were assumed to be the average of the first eight months.

**2. Opposition to other proposals.**

Dean does not see any evidence in the Record or in evaluating the market conditions that would justify the Secretary adopting the proposal submitted by Western United Dairymen, The Alliance, or modification suggested by Milk Producers Counsel in testimony. That being said, if the Secretary concludes that our view is wrong, of the options provided, we would support something along the lines of the modification

presented to by Milk Producers Counsel (though not at the enhanced price level that they suggest) over the other alternatives.

### **3. Continued impact of out-of-state packaged milk.**

The price advantage that has helped to establish out-of-state milk's presence in the California market continues to drive market pricing. This non-California regulated milk has price points at wholesale costs and on retail prices that everyone now is forced to meet. As I testified, if action is not taken to prevent further erosion, then another wave of unregulated milk could soon be coming, and California Class 1 sales will be lost and more pool dollars will flow out of state. At some point this erosion will cost plant capacity in California as processors lose business and are forced to consolidate to remain efficient.

### **4. Support for Dairy Institute's Proposal**

Because CDFA's statutes cannot regulate either packaged or bulk out-of-state milk entering California, Dean Foods wishes to reiterate our support for the Dairy Institute's proposal to lower the overall Class I price level in both the Northern and Southern Marketing Areas. We believe the prices are out of alignment with alternative supplies and other class prices.

It is clear from the record that milk is moving into California. Such movement is able to occur because the out-of state price of milk (typically the local statistical uniform price) is cheaper than the Class 1 price in California.

The Secretary should adopt Dairy Institute's proposal to lower the Class 1 price to lessen the accelerated loss of Class 1 sales and to stop Class 1 dollars that historically have accrued to all California producers from going to a select few producers, out-of-state interests, and trucking companies.

We sincerely appreciate your consideration of our post-hearing brief.

Sincerely,

Evan Kinser  
Director of Dairy Policy & Commodities